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HOUSE BILL 3026

By Miller L

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 39, Chapter 17, Part 5, to enact the "Tennessee Lottery For The Support of Education Act of 2002".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding the following as a new chapter:

PART 1

Section 4-51-101. This chapter shall be known and may be cited as the "Tennessee Lottery For The Support of Education Act of 2002".

Section 4-51-102. It is found and declared by the general assembly:

(a) That net proceeds of lottery games conducted pursuant to this chapter shall be used exclusively for the purposes set out in Article XI, Section 5 of the Constitution of Tennessee and are to be used to support improvements and enhancements for educational purposes and programs and that such net proceeds shall be used to supplement, not supplant, existing resources for educational purposes and programs;

(b) That lottery games are an entrepreneurial enterprise and that the state shall create a public body, corporate and politic, known as the Tennessee Lottery Corporation, with comprehensive and extensive powers as generally exercised by corporations engaged in entrepreneurial pursuits;

(c) That lottery games shall be operated and managed in a manner which provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free of political influence; and

(d) That the Tennessee Lottery Corporation shall be accountable to the general assembly and to the public through a system of audits and reports.

Section 4-51-103. As used in this chapter:

(a) "Administrative expenses" means operating expenses, excluding amounts set aside for prizes, regardless of whether such prizes are claimed and excluding amounts held as a fidelity fund pursuant to Section 4-51-119.

(b) "Board" means the board of directors of the Tennessee Lottery Corporation.

(c) "Capital outlay projects" means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery,

equipment, computers, software, laboratories, furniture, textbooks, and reference material or other property of any nature whatsoever used on, in, or in connection with educational facilities.

(d) "Casino gambling" means a location or business for the purpose of conducting illegal gambling activities, but excluding the sale and purchase of lottery tickets or shares as authorized by this chapter.

(e) "Chief executive officer" means the chief executive officer of the Tennessee Lottery Corporation.

(f) "Corporation" means the Tennessee Lottery Corporation.

(g) "Educational facilities" means land, structures, and buildings owned or operated by and through the University of Tennessee board of trustees, the board of regents, the state board of education, the department of education, or by any city, county, or independent school system or district within this state; provided, however, that a public road or highway leading to an educational facility shall not be considered an educational facility.

(h) "Educational purposes and programs" means capital outlay projects for educational facilities; tuition grants, scholarships, or loans to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges and universities are owned or operated by the University of Tennessee board of trustees or the board of regents or to attend institutions operated under the authority of the department of education; costs of providing to teachers at accredited public institutions who teach levels K-12, personnel at public postsecondary technical institutes under the authority of the department of education, and professors and instructors within the

Tennessee university system the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the state-wide distance learning network; costs associated with repairing and maintaining advanced electronic instructional technology; voluntary pre-kindergarten; and an education shortfall reserve.

(i) "Lottery," "lotteries," "lottery game," or "lottery games" means any game of chance approved by the board and operated pursuant to this chapter, including, but not limited to, instant tickets, on-line games, and games using mechanical or electronic devices but excluding pari-mutuel betting and casino gambling as defined in this section.

(j) "Major procurement contract" means any gaming product or service costing in excess of seventy five thousand dollars (\$75,000), including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, equipment, tickets, and other products and services unique to the Tennessee lottery, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation.

(k) "Member" or "members" means a director or directors of the board of directors of the Tennessee Lottery Corporation.

(l) "Member of a minority" means an individual who is a member of a race which comprises less than fifty percent (50%) of the total population of the state.

(m) "Minority business" means any business which is owned by:

(1) An individual who is a member of a minority who reports as such individual's personal income for federal income tax purposes the income of such business;

(2) A partnership in which a majority of the ownership interest is owned by one or more members of a minority who report as their personal income for federal income tax purposes more than fifty percent (50%) of the income of the partnership; or

(3) A corporation organized under the laws of this state in which a majority of the common stock is owned by one or more members of a minority who report as their personal income for federal income tax purposes more than fifty percent (50%) of the distributed earnings of the corporation.

(n) "Net proceeds" means all revenue derived from the sale of lottery tickets or shares and all other moneys derived from the lottery less operating expenses.

(o) "Operating expenses" means all costs of doing business, including, but not limited to, prizes, commissions, and other compensation paid to retailers, advertising and marketing costs, personnel costs, capital costs, depreciation of property and equipment, funds for compulsive gambling education and treatment, amounts held in or paid from a fidelity fund pursuant to Section 4-51-119 and other operating costs.

(p) "Pari-mutuel betting" means a method or system of wagering on actual races involving horses or dogs at tracks which involves the distribution of winnings by pools. Such term shall not mean lottery games which may be predicated on a horse racing or dog racing scheme that

does not involve actual track events. Such term shall not mean traditional lottery games which may involve the distribution of winnings by pools.

(q) "Person" means any individual, corporation, partnership, unincorporated association, or other legal entity.

(r) "Retailer" means a person who sells lottery tickets or shares on behalf of the corporation pursuant to a contract.

(s) "Share" means any intangible evidence of participation in a lottery game.

(t) "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game.

(u) "Vendor" means a person who provides or proposes to provide goods or services to the corporation pursuant to a major procurement contract, but does not include an employee of the corporation, a retailer, or a state agency or instrumentality thereof. Such term does not include any corporation whose shares are publicly traded and which is the parent company of the contracting party in a major procurement contract.

Section 4-51-104. There is created a body corporate and politic to be known as the Tennessee Lottery Corporation which shall be deemed to be an instrumentality of the state, and not a state agency, and a public corporation. Venue for the corporation shall be in Davidson County.

Section 4-51-105.

(a) The corporation shall be governed by a board of directors composed of seven (7) members to be appointed as follows:

(1) the governor shall appoint two (2) members;

(2) the lieutenant governor shall appoint two (2) members;

(3) the speaker of the house of representatives shall appoint two (2) members; and

(4) the chair of the senate state and local government committee and the chair of the house state and local government committee shall jointly appoint one (1) member.

(b) All appointed members shall be appointed with a view toward equitable racial, gender and geographic representation.

(c) The state treasurer and the comptroller of the treasury shall be ex-officio non-voting members of the board.

(d) Members shall be residents of this state, shall be prominent persons in their businesses or professions, and shall not have been convicted of any felony offense. The appointing officials should consider appointing to the board an attorney, an accountant, and a person having expertise in marketing.

(e) Members shall serve terms of five (5) years. However, in making the initial appointments, the governor, lieutenant governor and speaker of the house of representatives shall each appoint a member for a term of two (2) years, the lieutenant governor and speaker of the house of representatives shall each appoint a member for a term of four (4) years, and the governor and the chairs of the state and local government committees shall each appoint a member for a term of five (5) years. Any vacancy occurring on the board shall be filled by the official or officials making the original appointment for the unexpired term.

(f) Members of the board shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, an interest in a major procurement contract or a participating retailer.

(g) Upon approval by the chairperson, members of the board shall be reimbursed for actual and reasonable expenses incurred for each day's service spent in the performance of the duties of the corporation in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general.

(h) The members shall elect from their membership a chairperson and vice chairperson. The members shall also elect a secretary and treasurer who can be the chief executive officer of the corporation. Such officers shall serve for such terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No member of the board shall hold more than any one office of the corporation; except that the same person may serve as secretary and treasurer.

(i) The board of directors may delegate to any one or more of its members, to the chief executive officer, or to any agent or employee of the corporation such powers and duties as it may deem proper.

(j) A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

(k) Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

(l) No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

Section 4-51-106.

(a) The chairperson of the board of directors shall appoint a lottery retailer advisory board to be composed of ten (10) lottery retailers representing the broadest possible spectrum of geographical, racial, and business characteristics of lottery retailers. The function of the advisory board shall be to advise the board of directors on retail aspects of the lottery and to present the concerns of lottery retailers throughout the state.

(b) Members appointed to the lottery retailer advisory board shall serve terms of two (2) years; provided, however, that five (5) of the initial appointees shall serve initial terms of one (1) year.

(c) The advisory board shall establish its own rules and internal operating procedures. Members of the advisory board shall serve without compensation or reimbursement of expenses. The advisory board may report to the board of directors or to the oversight committee in writing at any time. The board of directors may invite the advisory board to make an oral presentation to the board of directors at regular meetings of the board.

Section 4-51-107.

The board of directors shall provide the chief executive officer with private-sector perspectives of a large marketing enterprise. The board shall:

(1) Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the corporation;

(2) Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer;

- (3) Hear appeals of hearings required by this chapter;
- (4) Adopt regulations, policies, and procedures relating to the conduct of lottery games and as specified in Section 4-51-109; and
- (5) Perform such other functions as specified by this chapter.

Section 4-51-108. The board of directors shall appoint and shall provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall direct the day-to-day operations and management of the corporation and shall be vested with such powers and duties as specified by the board and by law. The chief executive officer shall serve at the pleasure of the board.

Section 4-51-109.

(a) The corporation shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this chapter which are not in conflict with the constitution of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits, including, but without limiting the generality of the foregoing, the following powers:

- (1) To sue and be sued in contract and in tort and to complain and defend in all courts;
- (2) To adopt and alter a seal;
- (3) To adopt, amend, and repeal bylaws, regulations, and policies and procedures for the regulation of its affairs and the conduct of its business; to elect and prescribe the duties of officers and employees of the corporation; and to perform such other matters as the corporation

may determine. In the adoption of bylaws, regulations, policies, and procedures or in the exercise of any regulatory power, the corporation shall be exempt from the requirements of the Uniform Administrative Procedure Act, compiled in title 4, chapter 5;

(4) To procure or to provide insurance;

(5) To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

(6) To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this chapter and regulations, policies, and procedures adopted pursuant thereto;

(7) To enter into written agreements with one or more other states or sovereigns for the operation, participation in marketing, and promotion of a joint lottery or joint lottery games;

(8) To conduct such market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication;

(9) To acquire or lease real property and make improvements thereon and acquire by lease or by purchase personal property, including, but not limited to, computers; mechanical, electronic, and on-line equipment and terminals; and intangible property, including, but not limited to, computer programs, systems, and software;

(10) To enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial bank or credit

provider; provided, however, that any such debt must be approved by the state funding board;

(11) To administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to any investigation or proceeding conducted by the corporation;

(12) To appoint and select officers, agents, and employees, including professional and administrative staff and personnel and hearing officers to conduct hearings required by this chapter, and to fix their compensation, pay their expenses, and provide a benefit program, including, but not limited to, a retirement plan and a group insurance plan;

(13) To select and contract with vendors and retailers;

(14) To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks;

(15) To enter into contracts of any and all types on such terms and conditions as the corporation may determine;

(16) To establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit;

(17) To advertise and promote the lottery and lottery games;

(18) To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise; and

(19) To adopt and amend such regulations, policies, and procedures as necessary to carry out and implement its powers and duties, organize and operate the corporation, regulate the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of any such regulations, policies, and procedures shall be exempt from the requirements of the Uniform Administrative Procedure Act, compiled in title 4, chapter 5.

(b) The powers enumerated in subsection (a) are cumulative of and in addition to those powers enumerated elsewhere in this chapter, and no such powers limit or restrict any other powers of the corporation.

Section 4-51-110. The board may adopt regulations, policies, and procedures regulating the conduct of lottery games in general, including, but not limited to, regulations, policies, and procedures specifying:

(1) The type of games to be conducted, including, but not limited to, instant lotteries, online games, and other games traditional to the lottery. Such games may include the selling of tickets or shares or the use of electronic or mechanical devices;

(2) The sale price of tickets or shares and the manner of sale; provided, however, that all sales shall be for cash only and payment by checks, credit cards, charge cards, or any form of deferred payment is prohibited;

(3) The number and amount of prizes;

(4) The method and location of selecting or validating winning tickets or shares;

(5) The manner and time of payment of prizes, which may include lump sum payments or installments over a period of years;

(6) The manner of payment of prizes to the holders of winning tickets or shares, including without limitation provision for payment of prizes not exceeding six hundred dollars (\$600) after deducting the price of the ticket or share and after performing validation procedures appropriate to the game and as specified by the board. The board may provide for a limited number of retailers who can pay prizes of up to five thousand dollars (\$5,000) after performing validation procedures appropriate to the game and as specified by the board without regard to where such ticket or share was purchased;

(7) The frequency of games and drawings or selection of winning tickets or shares;

(8) The means of conducting drawings;

(9)

(A) The method to be used in selling tickets or shares may include the use of electronic or mechanical devices, but such devices may be placed only in locations on the premises of the lottery retailer which are within the view of such retailer or an employee of such retailer. All electronic or mechanical devices shall bear a conspicuous label prohibiting the use of such device by persons under eighteen (18) years of age.

(B) A lottery retailer who knowingly allows a person under eighteen (18) years of age to purchase a lottery ticket or share from an electronic or mechanical device shall be subject to the penalties provided in Section 4-51-126;

(10) The manner and amount of compensation to lottery retailers; and

(11) Any and all other matters necessary, desirable, or convenient toward ensuring the efficient and effective operation of lottery games, the continued entertainment and convenience of the public, and the integrity of the lottery.

Section 4-51-111.

(a) The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the regulations, policies, and procedures adopted by the board. It shall be the duty of the chief executive officer to:

(1) Facilitate the initiation and supervise and administer the operation of the lottery games;

(2) Employ and direct such personnel as deemed necessary;

(3) Employ by contract and compensate such persons and firms as deemed necessary;

(4) Promote or provide for promotion of the lottery and any functions related to the corporation;

(5) Prepare a budget for the approval of the board;

(6) Require bond from such retailers and vendors in such amounts as required by the board;

(7) Report quarterly to the state comptroller and the board a full and complete statement of lottery revenues and expenses for the preceding quarter; and

(8) Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

(b) The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the regulations, policies, and procedures of the board.

(c) The chief executive officer or such person's designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

Section 4-51-112.

(a) The corporation shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees, including, but not limited to, production incentive payments.

(b) No employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

(c) No employee of the corporation with decision-making authority shall participate in any decision involving a retailer with whom the employee has a financial interest.

(d) No employee of the corporation who leaves the employment of the corporation may represent any vendor or lottery retailer before the corporation for a period of two (2) years following termination of employment with the corporation.

(e) A background investigation shall be conducted on each applicant who has reached the final selection process prior to employment by the corporation at the level of division director and above and at any level within any division of security and as otherwise required by the board. The corporation shall be

authorized to pay for the actual cost of such investigations and may contract with the Tennessee bureau of investigation for the performance of such investigations. The results of such a background investigation shall not be considered a record open to the public pursuant to title 10, chapter 7, part 5.

(f) No person who has been convicted of a felony or any form of illegal gambling or of a crime involving moral turpitude shall be employed by the corporation.

(g) The corporation shall bond corporation employees with access to corporation funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

Section 4-51-113.

(a)

(1) All lottery proceeds shall be the property of the corporation.

(2) From its lottery proceeds the corporation shall pay the operating expenses of the corporation. As nearly as practical, at least forty-five percent (45%) of the amount of money from the actual sale of lottery tickets or shares shall be made available as prize money; provided, however, that this paragraph shall be deemed not to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries.

(3) As nearly as practical, for each fiscal year, net proceeds shall equal at least thirty-five percent (35%) of the lottery proceeds. However, for the first two (2) full fiscal years and any partial first fiscal year of the

corporation, net proceeds need only equal thirty percent (30%) of the proceeds as nearly as practical.

(b)

(1) On or before the fifteenth day of each quarter, the corporation shall transfer to the general fund of the state treasury, for credit to the lottery for education account for the preceding quarter, the amount of all net proceeds during the preceding quarter. The state treasurer shall assign a director level member of the treasurer's staff to separately account for net proceeds by establishing and maintaining a lottery for education account within the state treasury.

(2) Upon their deposit into the state treasury, any moneys representing a deposit of net proceeds shall then become the unencumbered property of the state and the corporation shall have no power to agree or undertake otherwise. Such moneys shall be invested by the director in accordance with state investment practices. All earnings attributable to such investments shall likewise be the unencumbered property of the state and shall accrue to the credit of the lottery for education account.

(3) A scholarship shortfall reserve subaccount shall be maintained within the lottery for education account. An amount equal to ten percent (10%) of the total amount of lottery proceeds disbursed during the preceding fiscal year in the form of scholarships and grants for higher education shall be deposited from lottery proceeds each year until such amount equals fifty percent (50%) of such sum. Thereafter, only an amount necessary to maintain the scholarship shortfall reserve subaccount in an amount equal to fifty percent (50%) of the amount of

lottery proceeds disbursed during the preceding fiscal year shall be deposited into the subaccount. If the net proceeds paid into the lottery for education account in any year are not sufficient to meet the amount appropriated for higher education scholarships, the shortfall reserve subaccount may be drawn upon to meet the deficiency. In the event it becomes necessary to draw from the reserve subaccount in any fiscal year, the scholarship program shall be reviewed and shall be reduced to accommodate available lottery proceeds, exclusive of the scholarship shortfall reserve subaccount, through such methods as reducing the family income cap qualification, reducing or eliminating grants for student fees and books, and reducing the academic years funded.

(4) A shortfall reserve subaccount shall be maintained within the lottery for education account. The amount of the shortfall reserve subaccount shall be equal to ten percent (10%) of the total amount of lottery proceeds deposited into the lottery for education account for the preceding fiscal year. If the net proceeds deposited into the lottery for education account in any year, exclusive of the amount in the shortfall reserve subaccount, are not sufficient to meet the amount appropriated for education purposes pursuant to subsection (c) of this section, the shortfall reserve subaccount may be drawn upon to meet the deficiency. In the event the shortfall reserve subaccount is drawn upon, the subaccount shall be brought back to the appropriate level with the first available funds duly deposited into the lottery for education account.

(c)

(1) In the budget report to the general assembly, as a separate budget category entitled "lottery proceeds," the governor shall estimate

the amount of net proceeds and treasury earnings thereon to be credited to the lottery for education account during the fiscal year and the amount of unappropriated surplus estimated to be accrued in the account at the beginning of the fiscal year. The sum of estimated net proceeds, treasury earnings thereon, and unappropriated surplus shall be designated lottery proceeds.

(2) In the budget report the governor shall further make specific recommendations as to the education programs and purposes for which appropriations should be made from the lottery for education account. The general assembly shall appropriate from the lottery for education account by specific reference to it, or by reference to "lottery proceeds." All appropriations of lottery proceeds to any particular budget unit shall be made together in a separate part entitled, identified, administered, and accounted for separately as a distinct budget unit for lottery proceeds. Such appropriations shall otherwise be made in the manner required by law for appropriations.

(3) It is the intent of the general assembly that appropriations from the lottery for education account shall be for educational proposes and projects only.

(4) If, for any educational purpose or program, less is appropriated in or during the fiscal year than is authorized, the excess shall be available for appropriation the following fiscal year and shall not retain its character as funds for the particular purpose.

(d) Appropriations for educational purposes and programs from the account not committed during the fiscal year shall lapse to the general fund and shall be credited to the lottery for education account.

(e) In compliance with the requirement of this chapter that there shall be a separate accounting of lottery proceeds, no deficiency in the lottery for education account shall be replenished by book entries reducing any nonlottery reserve of general funds, including specifically but without limitation the revenue shortfall reserve or the midyear adjustment reserve; nor shall any program or project started specifically from lottery proceeds be continued from the general fund; such programs must be adjusted or discontinued according to available lottery proceeds unless the general assembly by general law establishes eligibility requirements and appropriates specific funds within the general appropriations act; nor shall any nonlottery surplus in the general fund be reduced. No surplus in the lottery for education account shall be reduced to correct any nonlottery deficiencies in sums available for general appropriations, and no surplus in the lottery for education account shall be included in any surplus calculated for setting aside any nonlottery reserve or midyear adjustment reserve. In calculating net revenue collections for the revenue shortfall reserve and midyear adjustment reserve, the state auditor shall not include the net proceeds.

Section 4-51-114.

(a) It is the intent of the general assembly that the corporation encourage participation by minority businesses. To that end, the governor, speaker of the senate and speaker of the house of representatives shall jointly agree upon a minority consulting firm to assist the corporation in devising and adopting a plan to achieve, to the greatest extent possible, a high level of participation, partnerships and joint ventures with minorities and minority businesses. Such plan shall include training programs and other educational activities to enable such minorities and minority businesses to compete for contracts on an equal basis.

The board, in conjunction with the minority consultant, shall monitor and report the level of minority participation to the governor and the general assembly on an annual basis. The compensation and fees for the minority consultant shall be by a negotiated services contract between the consultant and the board and shall be for a duration of one (1) year. Such contract may be renewed on an annual basis until such time as the governor, speaker of the senate and speaker of the house of representatives agree that the services of a minority consultant are no longer necessary.

Section 4-51-115.

The corporation shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement. At the time of submitting such bid, proposal, or offer to the corporation, the corporation may require the following items:

(1) A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors, and each stockholder in such corporation; provided, however, that in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own beneficially five (5%) percent or more of such securities need be disclosed;

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust;

(C) If the vendor is an association, the members, officers, and directors; and

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers; and

(2) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business for each such state or jurisdiction.

Section 4-51-116.

(a)

(1) Each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank or credit provider acceptable to the corporation in an amount as deemed necessary by the corporation for that particular bid or contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest bearing or accruing and that are rated in one of the three highest classifications by an established nationally recognized investment rating service. Securities eligible under this section are limited to:

(A) Certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States;

(B) United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(C) Corporate bonds approved by the corporation. The corporation which issued the bonds shall not be an affiliate or subsidiary of the depositor.

Such securities shall be held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the lottery vendor under contract.

(2) Because of certain economic considerations, minority businesses may not be able financially to comply with the bonding, deposit of securities, or letter of credit requirements of subdivision (1). Notwithstanding any other provisions of this subsection, in order to assure minority participation in major procurement contracts to the most feasible and practicable extent possible, the chief executive officer is authorized and directed to waive the bonding, deposit of securities, and letter of credit requirements of subdivision (1) for a period of five (5) years from the time that a minority business enters into a major procurement contract for any minority business which substantiates financial hardship pursuant to the policies and procedures established by the board.

(b) Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state. All contracts under this section shall be governed by the laws of this state.

(c) No contract shall be let with any vendor in which a public officer or employee, as defined by Section 2-19-201, has an ownership interest of ten percent (10%) or more.

(d) All major procurement contracts shall be competitively bid pursuant to policies and procedures approved by the board unless there is only one qualified vendor and that vendor has an exclusive right to offer the service or product.

Section 4-51-117.

(a) The general assembly recognizes that to conduct a successful lottery, the corporation must develop and maintain a state-wide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

(b) The corporation shall make every effort to provide small retailers a chance to participate in the sales of lottery tickets or shares.

(c) The corporation shall provide for compensation to lottery retailers in the form of commissions in an amount of not less than five percent (5%) of gross sales and may provide for other forms of compensation for services rendered in the sale or cashing of lottery tickets or shares.

(d) The corporation shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display. Every lottery retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public its certificate of authority. No certificate shall be assignable or transferable.

(e) The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and on-line retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The board shall not consider political affiliation, activities, or monetary contributions to political

organizations or candidates for any public office. The criteria shall include but not be limited to the following:

(1) The applicant shall be current in filing all applicable tax returns to the state and in payment of all taxes, interest, and penalties owed to the state, excluding items under formal appeal pursuant to applicable statutes. The department of revenue is authorized and directed to provide this information to the corporation;

(2) No person, partnership, unincorporated association, corporation, or other business entity shall be selected as a lottery retailer who:

(A) Has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction;

(B) Has been convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction or convicted of any crime punishable by more than one year of imprisonment or a fine of more than one thousand dollars (\$1,000) or both unless the person's civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described in this subdivision;

(C) Has been found to have violated the provisions of this chapter or any regulation, policy, or procedure of the corporation unless either ten (10) years have passed since the violation or the board finds the violation both minor and unintentional in nature;

(D) Is a vendor or an employee or agent of any vendor doing business with the corporation;

(E) Resides in the same household as an officer of the corporation;

(F) Has made a statement of material fact to the corporation knowing such statement to be false; or

(G) Is engaged exclusively in the business of selling lottery tickets or shares; provided, however, that this subsection shall not preclude the corporation from selling or giving away lottery tickets or shares for promotional purposes;

(3) Persons applying to become lottery retailers shall be charged a uniform application fee for each lottery outlet. Retailers who participate in on-line games shall be charged a uniform application fee for each on-line outlet;

(4) Any lottery retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the chief executive officer or such person's designee if the retailer is found to have violated any provision of this chapter or objective criteria established by the board. Review of such activities shall be in accordance with the procedures outlined in this chapter and shall not be subject to the Uniform Administrative Procedures Act compiled in title 4, chapter 5.

(5) All lottery retailer contracts may be renewable annually in the discretion of the corporation unless sooner canceled or terminated.

(f) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100) in any calendar year, to the chief executive officer, any board member, or any employee of the corporation or to a

member of the immediate family residing in the same household as any such person.

Section 4-51-118.

(a) No lottery retailer contract shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

(b) Lottery tickets and shares shall only be sold by the retailer stated on the lottery retailer certificate.

Section 4-51-119.

(a) The corporation may establish a fidelity fund separate from all other funds and shall assess each retailer a one-time fee not to exceed one hundred dollars (\$100) per sales location. The corporation is authorized to invest the funds or place such funds in one or more interest-bearing accounts. Moneys deposited to the fund may be used to cover losses the corporation experiences due to nonfeasance, misfeasance, or malfeasance of a lottery retailer. In addition, the funds may be used to purchase blanket bonds covering the corporation against losses from all retailers. At the end of each fiscal year, the corporation shall pay to the general lottery fund any amount in the fidelity fund which exceeds five hundred thousand dollars (\$500,000), and such funds shall be commingled with and treated as net proceeds from the lottery.

(b) A reserve account may be established as a general operating expense to cover amounts deemed uncollectable. The corporation shall establish procedures for minimizing any losses that may be experienced for the foregoing

reasons and shall exercise and exhaust all available options in such procedures prior to amounts being written off to this account.

(c) The corporation may require any retailer to post an appropriate bond, as determined by the corporation, using an insurance company acceptable to the corporation. The amount shall not exceed the applicable district sales average of lottery tickets for two billing periods.

(d)

(1) In its discretion, the corporation may allow a retailer to deposit and maintain with the corporation securities that are interest bearing or accruing. Securities eligible under this subsection shall be limited to:

(A) Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States;

(B) United States bonds, notes, and bills for which the full faith and credit of the United States is pledged for the payment of principal and interest; and

(C) Federal agency securities by an agency or instrumentality of the United States government.

(2) Such securities shall be held in trust in the name of the corporation.

Section 4-51-120.

(a) Any retail contract executed by the corporation pursuant to this chapter shall specify the reasons for which a contract may be canceled, suspended, revoked, or terminated by the corporation, which reasons shall include but not be limited to:

(1) Commission of a violation of this chapter, a regulation, or a policy or procedure of the corporation;

(2) Failure to accurately or timely account for lottery tickets, lottery games, revenues, or prizes as required by the corporation;

(3) Commission of any fraud, deceit, or misrepresentation;

(4) Insufficient sales;

(5) Conduct prejudicial to public confidence in the lottery;

(6) The retailer filing for or being placed in bankruptcy or receivership;

(7) Any material change as determined in the sole discretion of the corporation in any matter considered by the corporation in executing the contract with the retailer; or

(8) Failure to meet any of the objective criteria established by the corporation pursuant to this chapter.

(b) If, in the discretion of the chief executive officer or such person's designee cancellation, denial, revocation, suspension, or rejection of renewal of a lottery retailer contract is in the best interest of the lottery, the public welfare, or the state, the chief executive officer or the designee may cancel, suspend, revoke, or terminate, after notice and a right to a hearing, any contract issued pursuant to this chapter. Such contract may, however, be temporarily suspended by the chief executive officer or the designee without prior notice pending any prosecution, hearing, or investigation, whether by a third party or by the chief executive officer. A contract may be suspended, revoked, or terminated by the chief executive officer or the designee for any one (1) or more of the reasons enumerated in this section. Any hearing held shall be conducted by the chief executive officer or the designee. A party to the contract aggrieved by the

decision of the chief executive officer or the designee may appeal the adverse decision to the board. Such appeal shall be pursuant to the regulations, policies, and procedures set by the board and is not subject to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Section 4-51-121.

(a) All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the corporation either directly or through the corporation's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of the sale of any lottery products, net of allowable sales commissions and credit for lottery prizes sold to or paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand.

(b) The corporation shall require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the federal deposit insurance corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, lottery proceeds shall be deemed to be the property of the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account where available for the purpose of receiving moneys from ticket or share sales, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each lottery retailer shall establish a

separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.

(c) Whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer becomes insolvent or dies insolvent, the proceeds due the corporation from such person or such person's estate shall have preference over all debts or demands.

Section 4-51-122. If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state operated or state managed lottery, only the compensation received by the lottery retailer from the corporation may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

Section 4-51-123.

(a) No person shall sell a ticket or share at a price other than established by the corporation unless authorized in writing by the chief executive officer. No person other than a duly certified lottery retailer shall sell lottery tickets, but this subsection shall not be construed to prevent a person who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares to another. Nothing in this chapter shall be construed to prohibit the corporation from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

(b) Lottery tickets or shares may be given by merchants as a means of promoting goods or services to customers or prospective customers subject to prior approval by the corporation.

(c) No lottery retailer shall sell a lottery ticket or share except from the locations listed in such retailer's contract and as evidenced by the certificate of authorization unless the corporation authorizes in writing any temporary location not listed in the contract.

(d) No lottery tickets or shares shall be sold to persons under eighteen (18) years of age, but this subsection does not prohibit the purchase of a lottery ticket or share by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment of proceeds of any lottery prize to an adult member of the person's family or a legal representative of the person on behalf of such person.

Section 4-51-124.

(a) Except as otherwise provided in Part 2 of this chapter, attachments, garnishments, or executions authorized and issued pursuant to law shall be withheld if timely served upon the corporation. This subsection shall not apply to a retailer.

(b) The corporation shall adopt regulations, policies, and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, except that:

(1) No prize, any portion of a prize, or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the

deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;

(2) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received, or not recorded by the corporation within applicable deadlines; lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or not in compliance with such additional specific regulations and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved;

(3) No particular prize in any lottery game shall be paid more than once, and in the event of a determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize; and

(4) A holder of a winning cash ticket or share from a lottery game shall claim a cash prize within one hundred eighty (180) days, or for a multistate or multisoovereign lottery game within one hundred eighty (180)

days, after the drawing in which the cash prize was won. In any Tennessee lottery game in which the player may determine instantly if he has won or lost, such player shall claim a cash prize within ninety (90) days, or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game. If a valid claim is not made for a cash prize within the applicable period, the cash prize shall constitute an unclaimed prize for purposes of this section.

(c) No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of this section.

(d) The corporation is discharged of all liability upon payment of a prize.

(e) No ticket or share shall be purchased by and no prize shall be paid to any member of the board of directors; any officer or employee of the corporation; or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person. No ticket or share shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

(f) No lottery game utilizing an electronic or mechanical machine may use a machine which dispenses coins or currency.

(g) Unclaimed prize money shall not constitute net lottery proceeds. A portion of unclaimed prize money, not to exceed two hundred thousand dollars (\$200,000) annually, shall be directed to the department of human services for

the treatment of compulsive gambling disorder and educational programs related to such disorder. In addition, unclaimed prize money may be added to the pool from which future prizes are to be awarded or used for special prize promotions.

Section 4-51-125.

(a) Except as otherwise provided in this chapter, the corporation is subject to the provisions of title 10, chapter 7, part 5, and title 8, chapter 44. The corporation is specifically authorized to determine which information relating to the operation of the lottery is confidential. Such information includes trade secrets; security measures, systems, or procedures; security reports; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the corporation to contract for goods or services on favorable terms; employee personnel information unrelated to compensation, duties, qualifications, or responsibilities; and information obtained pursuant to investigations which is otherwise confidential. Information deemed confidential pursuant to this section is exempt from the provisions of title 10, chapter 7. Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this section are exempt from title 8, chapter 44.

(b) The corporation shall perform or cause to be performed full criminal background investigations prior to the execution of any vendor contract.

(c) The corporation or its authorized agent shall:

- (1) Conduct criminal background investigations and credit investigations on all potential retailers;
- (2) Supervise ticket or share validation and lottery drawings;
- (3) Inspect at times determined solely by the corporation the facilities of any vendor or lottery retailer in order to determine the integrity

of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract;

(4) Report any suspected violations of this chapter to the appropriate district attorney or the attorney general and reporter and to any law enforcement agencies having jurisdiction over the violation; and

(5) Upon request, provide assistance to any district attorney, the attorney general and reporter, or a law enforcement agency investigating a violation of this chapter.

Section 4-51-126 Any person who knowingly sells a lottery ticket or share to a person under eighteen (18) years of age or permits a person under eighteen (18) years of age to play any lottery game commits a Class A misdemeanor punishable by fine only of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense and for each subsequent offense not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000). It is an affirmative defense to a prosecution under this section that the retailer reasonably and in good faith relied upon representation of proof of age in making the sale.

Section 4-51-127.

(a) It is an offense for any person to falsely make, alter, forge, utter, pass, or counterfeit a state lottery ticket with the intent to defraud.

(b) It is an offense for any person to knowingly influence or attempt to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials.

(c) A violation of this section is a Class E felony, provided the maximum fine for a violation of subsection (a) shall be five thousand dollars (\$5,000) and the maximum fine for a violation of subsection (b) shall be fifty thousand dollars (\$50,000).

Section 4-51-128. No person shall knowingly make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board pursuant to the provisions of this chapter. Any person who violates the provisions of this section commits a Class E felony except that the maximum allowable fine shall be twenty-five thousand dollars (\$25,000) or the dollar amount of the false entry or statement, whichever is greater.

Section 4-51-129.

(a) The corporation may enter into intelligence sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

(b) Records, documents, and information in the possession of the corporation received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to section 10-7-503,

and shall not be released under any condition without the permission of the person or agency providing the record or information.

Section 4-51-130.

(a) The corporation shall enter into its contracts for major procurements after competitive bidding. The requirement for competitive bidding shall not apply in the case of a single vendor having exclusive rights to offer a particular service or product. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public.

(b) In any bidding process, the corporation may administer its own bidding and procurement or may utilize the services of the department of general services or other state agency or subdivision thereof.

(c) In any bidding process, the corporation shall encourage and enforce applicable law requiring bidding vendors to present a minority and women MBE and MWBE plan insuring participation, partnerships and joint ventures by minorities and minority businesses.

Section 4-51-131.

(a) Any retailer, vendor, or applicant for a retailer or vendor contract aggrieved by an action of the board may appeal that decision to the chancery court of Davidson County.

(b) The chancery court of Davidson County shall hear appeals from decisions of the board and based upon the record of the proceedings before the

board may reverse the decision of the board only if the appellant proves the decision to be:

- (1) Clearly erroneous;
- (2) Arbitrary and capricious;
- (3) Procured by fraud;
- (4) A result of substantial misconduct by the board; or
- (5) Contrary to the United States Constitution or the Constitution of Tennessee or the provisions of this chapter.

(c) The chancery court may remand an appeal to the board to conduct further hearings.

(d) Any person who appeals the award of a major procurement contract for the supply of a lottery ticket system, share system, or an on-line or other mechanical or electronic system shall be liable for all costs of appeal and defense in the event the appeal is denied or the contract award upheld. Cost of appeal and defense shall specifically include but not be limited to court costs, bond, legal fees, and loss of income to the corporation resulting from institution of the appeal if, upon the motion of the corporation, the court finds the appeal to have been frivolous.

Section 4-51-132.

(a) The corporation may borrow, or accept and expend, in accordance with the provisions of this chapter, such moneys as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including the payment of the initial expenses of initiation, administration, and operation of the corporation and the lottery.

(b) The corporation shall be self-sustaining and self-funded. Moneys in the state general fund shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery, and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the corporation operating account.

(c) The corporation may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The corporation may make procurements which integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for the benefit of educational programs and purposes.

Section 4-51-133.

To ensure the financial integrity of the lottery, the corporation through its board of directors shall:

(1) Submit quarterly and annual reports to the governor, comptroller, and the oversight committee created by section 4-51-134, disclosing the total lottery revenues, prize disbursements, operating expenses, and administrative expenses of the corporation during the reporting period. The annual report shall additionally describe the organizational structure of the corporation and summarize the functions performed by each organizational division within the corporation;

(2) Adopt a system of internal audits;

(3) Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the corporation;

(4) Contract with a certified public accountant or firm for an annual financial audit of the corporation. The certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract. The certified public accountant or firm shall present an audit report not later than seven (7) months after the end of the fiscal year. The certified public accountant or firm shall evaluate the internal auditing controls in effect during the audit period. The cost of this annual financial audit shall be an operating expense of the corporation. The comptroller may at any time conduct an audit of any phase of the operations of the corporation at the expense of the state and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or firm or the state comptroller shall be transmitted to the governor, the speaker of the senate, and the speaker of the house of representatives, the state comptroller, and the oversight committee chairperson;

(5) Submit to the office of planning and budget, the legislative budget office and the state comptroller by June 30th of each year a copy of the annual operating budget for the corporation for the next fiscal year. This annual operating budget shall be approved by the board and be on such forms as prescribed by the office of planning and budget;

(6) For informational proposes only, submit to the office of planning and budget on September 1 of each year a proposed operating budget for the corporation for the succeeding fiscal year. This budget proposal shall also be

accompanied by an estimate of the net proceeds to be deposited into the lottery for education account during the succeeding fiscal year. This budget shall be on such forms as prescribed by the office of planning and budget; and

(7) Adopt the same fiscal year as that used by state government.

Section 4-51-134.

(a) There is created a joint committee of the general assembly to be known as the lottery corporation oversight committee, to be composed of the chairs of the senate state and local government committee and the house state and local government committee, the members of the state government subcommittee of the house state and local government committee, and an equal number of senators selected by the chair of the senate state and local government committee. The chairs of the state and local government committees shall serve as co-chairs of the oversight committee. The oversight committee shall periodically inquire into and review the operations of the corporation, as well as periodically review and evaluate the success with which the authority is accomplishing its statutory duties and functions as provided in this chapter. The oversight committee may conduct any independent audit or investigation of the authority it deems necessary.

(b) The corporation shall provide the oversight committee not later than December 1 of each year with a complete report of the level of participation of minority businesses in all retail and major procurement contracts awarded by the corporation.

PART 2

Section 4-51-201. The purpose of this part is to establish a policy and to provide a system whereby all claimant agencies of this state in conjunction with the corporation shall cooperate in identifying debtors who owe money to the state through its various claimant agencies or to persons on whose behalf the state and its claimant agencies act and who qualify for prizes under part 1 of this chapter from the corporation. It is also the purpose of this part to establish procedures for setting off against any such prize the sum of any debt owed to the state or to persons on whose behalf the state and its claimant agencies act. It is the intent of the general assembly that this part be liberally construed to effectuate these purposes.

Section 4-51-202.

As used in this part:

(1) "Claimant agency" means any state agency, department, board, bureau, commission, or authority to which an individual owes a debt or which acts on behalf of an individual to collect a debt;

(2) "Debt" means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort, or operation of law, regardless of whether there is an outstanding judgment for the sum, or any sum which is due and owing any person and is enforceable by the state or any of its agencies or departments;

(3) "Debtor" means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated as satisfied by court order, set aside by court order, or discharged in bankruptcy ; and

(4) "Prize" means the proceeds of any lottery prize awarded under part 1 of this chapter.

Section 4-51-203. The collection remedy authorized by this part is in addition to and not in substitution for any other remedy available by law.

Section 4-51-204.

(a) Any claimant agency shall submit to the corporation a list of the names of all persons owing debts in excess of one hundred dollars (\$100) to such claimant agency or to persons on whose behalf the claimant agency is acting. The full amount of the debt shall be collectable from any lottery winnings without regard to limitations on the amounts that may be collectable in increments through garnishment or other proceedings. Such list shall constitute a valid lien upon and claim of lien against the lottery winnings of any debtor named in such list. The list shall contain the names of the debtors, their social security numbers if available, and any other information which would assist the corporation in identifying the debtors named in the list.

(b) The corporation is authorized and directed to withhold any winnings subject to the lien created by this section and send notice to the winner by certified mail, return receipt requested, of such action and the reason the winnings were withheld. However, if the winner appears and claims winnings in person, the corporation shall notify the winner at that time by hand delivery of such action. If the debtor does not protest the withholding of such funds in writing within thirty (30) days of such notice, the corporation shall pay the funds over to the claimant agency. If the debtor protests the withholding of such funds within thirty (30) days of such notice, the corporation shall file an action in interpleader in the circuit court of the county in which the debtor resides, pay the disputed

sum to the clerk of the court, and give notice to the claimant agency and debtor of the initiation of such action.

(c) The liens created by this section shall rank among themselves as follows:

(1) Taxes due the state;

(2) Delinquent child support; and

(3) All other judgments and liens in order of the date entered or perfected.

(d) The corporation shall not be required to deduct claimed debts from prizes paid out by retailers or entities other than the corporation.

(e) Any list of debt provided pursuant to this part shall be provided periodically as the corporation shall provide by rules and regulations and the corporation shall not be obligated to retain such lists or deduct debts appearing on such lists beyond the period determined by such rules and regulations.

(f) The corporation is authorized to prescribe forms and promulgate rules and regulations which it deems necessary to carry out the provisions of this part.

(g) The corporation and any claimant agency shall incur no civil or criminal liability for good faith adherence to the provisions of this part.

(h) The claimant agency shall pay the corporation for all costs incurred by the corporation in setting off debts in the manner provided in this part.

Section 4-51-205.

(a) Notwithstanding section 4-51-129, which prohibits disclosure by the corporation of the contents of prize winner records or information, and notwithstanding any other confidentiality statute, the corporation shall provide to

a claimant agency all information necessary to accomplish and effectuate the intent of this part.

(b) The information obtained by a claimant agency from the corporation in accordance with this part shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. Any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the corporation.

Section 4-51-206. The provisions of this part shall only apply to prizes of five thousand dollars (\$5,000) or more and shall not apply to any retailers authorized by the board to pay prizes of up to five thousand dollars (\$5,000) after deducting the price of the ticket or share.

SECTION 2. Tennessee Code Annotated, Section 39-17-506, is amended by deleting the first sentence of subsection (a) and substituting instead the following:

Except as authorized in title 4, chapter 51, a person commits an offense who knowingly makes or aids in the making of any lottery.

SECTION 3. The provisions of this act shall take effect only if the proposed amendment to Article XI, Section 5 of the Constitution of Tennessee is properly approved at the November general election in 2002. If such amendment is approved, this act shall take effect on December 1, 2002, the public welfare requiring it.